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File No. O /Entertain-ment/52.
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Subject:—

Opinion on the

Bombay Feeding at

Entertainment (Restriction)

order, 1949

1952

File No. O /Entertainment /52

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C O N T E N T S.

Legal Department File No. 3. Entertainment/52

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KAR/21-7.

K.S.R. 24/7

"Household" has been defined in the Bombay-Feeding at Entertainments (Restriction) Order, 1950, to mean a group of persons normally residing and messing jointly as the members of one domestic unit. In R.L.A's opinion No.G-279, dated 12-7-1951 it was stated that the members of the mess as a whole do not constitute a household as defined in the Order. The word "domestic" which is derived from the Latin word 'domus' meaning a house or dwelling would primarily be referable to a family as such. But the expression "domestic unit" can be construed widely so as to include persons who live regularly as members of a staff or as members of an organisation who live together regularly. In the case of Cameron v. Royal London Opthalmic Hospital du Parcq L.J. pointed out that the word "domestic" would no doubt be applied to a boarding school and also to a residential college in a University and that he had no doubt that it applied to a hospital. "The term "domestic" may be applied to establishments of that kind. Those who live there regularly, as members of the staff, and temporarily as patients, may be regarded as a family in a wide sense, and certainly the establishment is of a domestic character as a whole." (1941) 1 King's Bench 350 at p.358. In law, therefore, there should be no objection to treating messes in colleges, universities, hospitals or even in the Army and Navy as domestic units. But the definition of "household" requires that the persons must reside and mess jointly as

the members of such domestic unit. Both residence and messing jointly is required by the definiton. The Naval or the Army messes presumably are composed of two types of members (1) those who reside and mess, and (2) those who mess occasionally as without residing, depending upon whether they are bachelors or married officers. Having regard to that fact ~~m~~only those who reside and mess can be treated as a household, and from that point of view R.L.A's opinion No.G-279, dated 12-7-1951 was correct; because those who reside and also those who do not reside cannot form a household according to the definition.

2. There is considerable force in the representation made by the Government of India, and it is necessary that the law should not be so framed as to interfere with healthy military and naval traditions which must be fostered in the interests of esprit de corps and the discipline of corporate life. The legal position being what is stated above in accordance with the strict interpretation of the definition, the best course would be to expand the definition of "household" so as to include therein, in terms if necessary, Naval and Military messes and also messes or analogous establishments in colleges, Universities, hospitals and such like institutions.

Id/- P.N.L. 30/4

Remembrancer of Legal Affairs.

U.R. to C.S.D. No.G-181, dated 30th April 1952.

KAM/24-7.

Office of the R.L.A.

The following general question is referred to the R. L. A. for opinion:-

Whether any person who dines on payment-being one of the invitees at a function where invitations are issued by the organizing committee of a Festival for a dinner in a catering establishment on payment by the invitee and his guests, is to be counted among the total number of 24 permissible under the Bombay Feeding at Entertainments (Restriction) Order, 1950.

Neither the invitee nor his guests pay directly to the catering establishment and take dinner in that establishment. The charges are recovered by the sponsors by sale of tickets and the dinner is arranged with the caterer by the sponsors viz., the organizing committee. In such a case the organizing committee can be said to have served dis-tributed or provided for consumption prohibited articles in connection with a function and if the invitees together with their guests etc. exceed 24 then there would be a breach of clause 3 of the Bombay Feeding at Entertainments (Restriction) Order, 1950. Every invitee or his guest would be counted among the total number for ascertaining whether such number exceeds 24 or not and they would not be excluded from that number only because they paid for their dinner.

Sd/- P.H.L. 29/5

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-232, dated the 30th May 1952.

KAH/24-7.
4 c.

Office of the R.L.A.

Opinion of the R.L.A. is sought on the 3 different applications received by Government from Charitable Institutions the details of which are set out seriatum in the note of Director of Civil Supplies (Shri Samarth) dated the 1st July 1952 as follows:-

(1) A fete or a carnival is arranged by an organisation with various stalls for sale of work as well as for amusement. At one of the stalls prohibited articles are sold to the persons attending the fete. Sometimes, along with the stalls there is provision for dancing and a cabaret show is occasionally included. It is presumed that since prohibited articles are sold at one of the stalls at the fete no permit is necessary for the purpose although there is a dance floor for those who wish to take advantage of this facility.

(2) Charitable organisations arrange to have tickets sold to the public on one of the dance days, at, for example the Taj, on the usual dance night. The facility of dancing is a normal one given to the public by the catering establishment but the charges made are much higher than the usual charges for dinner and dance. The catering establishment generally recovers its normal charges and the difference is retained by the charitable organisation when tickets are sold by the organisation or is paid to the charitable organisation on the tickets sold by the catering establishment. It may be that the catering establishment also charges concessional rates, that is, in fact makes a donation of a part of its share to the organization. It is necessary to know whether such an arrangement will require a permit.

(3) The catering establishment itself advertises that the proceeds of a particular dance night will be donated to a charitable organisation named by it. Special rates for dinner and dance are announced and the sale of tickets is made by the Catering establishment or by the social workers of the organisation on behalf of the catering establishment. The dinner and dance is held on one of the nights on which the catering establishment normally holds such dances. The entire sale proceeds are ~~xxxx~~ collected by the catering establishment and a part is then handed over to the organisation for whose benefit the dinner dance was held. Presumably such an arrangement would not require a permit.

Re: case No. 1. The fete or carnival arranged would be an 'entertainment' within the meaning of clause 1(1) of the Bombay Feeding at Entertainments (Restriction) Order, 1950. But the prohibited articles are not distributed or served by the organisers of the fete or carnival or on behalf of them. Various stalls are opended and prohibited articles are sold by the stall holders as any other shopkeeper sells his wares to his customers. The view taken by the Director of Civil Supplies that no permit is necessary in such a case under the Bombay Feeding at Entertainments (Restriction) Order, 1950 is correct.

Re: case No. 2. In this case the charitable organisation sells or causes to be sold tickets for the dance or dinner and even though the facility of dance and dinner is normal one at the catering establishment, the tickets are sold at higher rates so that the difference between the usual charges of the caterer and the higher rates goes to charity. In such cases a permit under the Bombay Feeding at Entertainments

(Restriction) Order would be necessary as the dance and dinner would be considered as a special dance and dinner in view of the higher charges. "Such dances should be distinguished from the routine dances and cabarets which are a regular feature of club and hotel life and which are more in the nature of amenities provided for the members and residents (R.L.A's No. 9070 dt. 8-12-43)

Next case No. 3. In this case the dance and dinner are the usual feature of the catering establishment but the catering establishment charges higher rate for paying the proceeds to a charitable organization. The tickets are sold by the catering establishment or by a social xxx worker of the organization on behalf of the catering establishment. Only because the proceeds go to a charitable organization or its social worker assists the catering establishment to sell tickets, the normal dance and dinner would not be considered as an entertainment and a permit would not be necessary. But as higher charges are recovered and the dance and dinner are arranged for a particular purpose, it may be considered as special dance and dinner and a permit would be necessary.

Sd/- P.M.L. 24/7

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-337, dated the 24th July 1952.

KAR/24-7.
4 c.

Office of the R.L.A.

The Director of Civil Supplies has raised the following further question in connection with the advice given on case No. 1 in the R.L.A's opinion, No. G-337, dated the 24th July 1952:-

'If the organisers arrange for dancing (and/or cabaret) and set up a food stall themselves, along with other stalls (some or all of which may also be set up by the organisers themselves), would this amount to provision of eatables at or in connection with a function.'

It is clear from R.L.A's opinion No. G-337, dated the 24th July 1952 that a dance or cabaret arranged by the organisers would be an 'entertainment' within the meaning of clause 1(1) of the Bombay Feeding at Entertainments (Restriction) Order, 1950. If the foodstall is set up by the organisers then it can be said that the organisers have provided for consumption prohibited articles in connection with the entertainments and it would be immaterial whether the food is sold or distributed gratis. The organisers would therefore require a permit under the order. As regards the other stalls which are not set up by the organisers, there would be no objection to the service or sale of prohibited articles at such stalls because those stallholders cannot be said to act as the agents of the organisers nor can it be said that the organisers are distributing food through them. Their position would be the same as stated in case No. 1 in R.L.A's above said opinion.

Sd/- P.M.L. 18/8

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-397, dated the 19th August 1952.

KAN/24-7.
4 a.

Office of the R.L.A.,

A fete or a carnival arranged by an organization where all the stalls are put up for sale of work only, would be a sort of exhibition which would not be covered by the term 'Entertainment' as defined under clause 2(1)(i) of the Bombay Feeding at Entertainments (Restriction) Order (Pl. see R.L.A's opinion No.15641, dated 1-10-1950). However where a fete or a carnival is arranged with various stalls for sale of work as well as for amusement, it would be an entertainment. In such a fete or a carnival, if a foodstall is provided for, by the organizers, a permit would be necessary under the order as in that case the organizers can be said to have provided for consumption prohibitted articles in connection with the entertainment. In case, the foodstall is set up by a person or persons other than the organizers there would be no objection to the service or sale of prohibitted articles at such a stall (Pl. see R.L.A's opinion No. G-397, dated the 19th August 1952).

Id/- P.H.L. 27/12

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G-721, dated the 20th December 1952.

RAH/24-7.
4 c.